

REMARKS

Claims 1-37 are currently pending. Applicant has amended claims 14 and 16.

Applicant wishes to thank the Examiner for his consideration during the telephone conference on January 10, 2006. During the telephone conference, the Examiner and applicant's representative discussed the content of the Declaration Under 37 C.F.R. § 1.132 enclosed herein.

The Examiner has noted the title as non-descriptive. Applicant has amended the title as suggested by the Examiner.

The Examiner has rejected claims 17-24 under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Examiner's basis for rejecting these claims is, in part, because they are not "within the technological arts." (Examiner's Action, October 3, 2005, p. 2.) Applicant would like to direct the Examiner's attention to *Ex parte Lundgren* (U.S.P.T.O. Bd. Pat. App. & Intf., Appeal No. 2003-2088, Oct. 2005). In that opinion, the Board held that "there is no judicially recognized separate 'technological arts' test to determine patent eligible subject matter under Section 101." (*Id. at p. 9.*) Therefore, even though applicant disagrees with Examiner as to whether the claims meet a "technological arts" test, since there is no such test, the point is moot.

The Examiner has rejected claims 14 and 16 under 35 U.S.C. 112, second paragraph, as being indefinite. Applicant has amended claims 14 and 16 to address the Examiner's concern.

The Examiner has rejected claims 1, 17, 25-27, and 33 under 35 U.S.C. §102(b) as being anticipated by the publication titled "Microsoft Project 2000 for Windows Produce Enhancements Guide" ("the Guide"), and claims 2-16, 18-24, 28-32, and 34-37 under 35 U.S.C. §103(a) as being unpatentable over the Guide. As declared by applicant in the enclosed Declaration Under 37 C.F.R. § 1.132, the Guide was not available to the public before November 1, 1999, which is not more than 1 year prior to the filing date of the

present application. Thus, the Guide is disqualified as a 35 U.S.C. §102(b) reference. In addition, applicant further declares that the applicant has conceived or invented the subject matter of the present application that is described in the Guide. As such, the Declaration explains that applicant reduced the claimed invention to practice before November 1, 1999 by implementing the claimed invention in the software that was released as part of the beta test.

Based upon these amendments and remarks, applicant respectfully requests reconsideration of this application and its early allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-8548.

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Respectfully submitted,

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